

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

GEORGIA SOUTHWESTERN RAILROAD,)	
INC., a Corporation,)	
Plaintiff,)	
v.)	2:06-CV-00003-DRB
)	
AMERICUS C. MITCHELL, JR.,)	
Defendant.)	

SECOND AMENDED SCHEDULING ORDER

For good cause following a conference with counsel on discovery-related motions, it is **ORDERED** that the AMENDED SCHEDULING ORDER FILED October 25, 2006 (Doc. 31) to modify the Uniform Scheduling Order (Doc. 9, March 31, 2006) is again AMENDED, with the following result [modified provisions are marked by an * and bold italics]:

1. Jury Trial AND Pre-Trial Conference (Section 1)

The Jury Trial previously scheduled to commence with jury selection on December 4, 2006, is *CONTINUED to the jury term commencing on June 4, 2007.* The *final pretrial conference* is continued from November 13, 2006, to *April 5, 2007*, in District Courtroom 4A. Plaintiff shall ensure that the original of the jointly prepared **proposed pretrial order** is received by the court on or before *March 29, 2007*, transmitted in wordperfect format to the proposed order CMECF box of the successor judge.

***2. Dispositive Motions (Section 2)**

By Order entered October 25, 2006, the court denied without prejudice a timely filed summary judgment motion in order to allow for supplemental discovery (from October 25 to November 30, 2006) on a single issue – the proper measure of damages for the railroad trestle bridge which is the subject of this tort claim. *For good cause, the deadline for supplemental*

discovery on this issue is now extended from November 30, 2006, to December 30, 2006. In lieu of proceeding on November 29, 2006 with Plaintiff's deposition, Plaintiff will make available at the previously scheduled time and place certain discovery records identified during the hearing on November 28, 2006. If Defendant deems it necessary, after reviewing the records, to continue with the Plaintiff's deposition, Plaintiff shall be made available for such deposition in Montgomery, Alabama, instead of the corporate headquarters in Georgia. If the supplemental discovery discloses to either party a need for expert witnesses, the party is INSTRUCTED promptly to seek a reasonable extension of the discovery deadline and any related deadline, including the dispositive motion cutoff, pretrial conference and trial date.

Any motions to dismiss or motions for summary judgment which are grounded on this supplemental discovery must be filed by **January 22, 2006**, pursuant to the guidelines set in the original scheduling order. Responses in opposition must be filed not later than **February 15, 2007**, and any Reply to a Response may be filed by **February 28, 2007**. Unless oral argument is requested or set by the court, the dispositive motions shall be deemed submitted for ruling after **February 28, 2007**.

***3. Settlement Conference; Mediation Request (Section 3)**

The parties shall conduct a face-to-face settlement conference, not later than **March 19, 2007**, at which counsel shall engage in good faith settlement negotiations. If settlement cannot be reached, counsel shall also discuss whether mediation will assist the parties in reaching settlement. Counsel for the plaintiff shall file, not later than **March 28, 2007** a "Notice Concerning Settlement Conference and Mediation."

4. Disclosure of Trial Witnesses and Exhibits (Sections 10, 11,12)

a. Pursuant to the provisions of Rule 26(a)(3) of the Federal Rules of Civil Procedure, and Section 10 of the original scheduling order, the parties shall exchange not later than **April 5, 2007**, the names, addresses and telephone numbers of all witnesses, except witnesses solely for

impeachment purposes, separately identifying those whom the party expects to present and those whom the party may call if the need arises.

b. Pursuant to the provisions of Rule 26(a)(3) of the Federal Rules of Civil Procedure, and Section 11 of the original scheduling order, by **May 14, 2007**, the parties shall identify any part of a deposition that a party expects to use at trial. Adverse parties shall within **ONE WEEK THEREAFTER** identify any responsive parts of depositions expected to be used, and a party shall within **THREE DAYS** of the designation of such responsive parts designate any part which is desired as a rebuttal thereto.

c. Pursuant to the provisions of Rule 26(a)(3) of the Federal Rules of Civil Procedure, and Section 12 of the original scheduling order, by **April 5, 2007** the parties shall, furnish opposing counsel for copying and inspection all exhibits or tangible evidence to be used at the trial, and proffering counsel shall have such evidence marked for identification prior to trial.

DONE this 29th day of November, 2006.

/s/ Delores R. Boyd
DELORES R. BOYD
UNITED STATES MAGISTRATE JUDGE